

Message Text

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ACTION DLOS-02

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TO USMISSION GENEVA IMMEDIATE
INFO SECSTATE WASHDC IMMEDIATE 3098
AMEMBASSY JAKARTA
AMEMBASSY SINGAPORE
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C O N F I D E N T I A L SECTION 1 OF 2 KUALA LUMPUR 2433

LIMDIS

GENEVA FOR USDEL LOS CONFERENCE

E.O.11652: GDS
TAGS: PLOS, MY, US
SUBJECT: USG LAW OF THE SEA POSITIONS AS NEGOTIATIONS RECOMMENCE

REF: A) STATE 71543, B) STATE 70638, B) STATE 70035
D) SINGAPORE 0358, E) KUALA LUMPUR 2363, F) KUALA LUMPUR 0583
(NOTAL)

1. SUMMARY: GOM PREPARATIONS FOR GENEVA SESSION OF LOS CONFERENCE
ARE UNDERWAY. PART OF GOM DELEGATION ALREADY ENROUTE TO GENEVA BUT
ALL MINISTER/ATTORNEY GENERAL HAMZAH AND A KEY AIDE ARE NOT EXPECTED
TO BE ON HAND BEFORE THIRD WEEK OF SESSION. MEANWHILE GOM OFFICIALS
INVOLVED IN LOS MATTERS ARE CONTINUING TO REVIEW AMBASSADOR RICHARDSON
'S
ENUNCIATION OF US LOS POLICY IN RECENT WEEKS, ESPECIALLY THAT PERTAIN

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ING TO DEEP SEABEDS MINING ISSUE. LAW MINISTER'S INITIAL REACTION
REPORTEDLY IS THAT OF CONCERN THAT US "GO IT ALONE" POLICY ON DEEP
SEABED MINING MIGHT ANTAGONIZE SOME OF THE MORE RADICAL THIRD
WORLD PARTICIPANTS. GOM CONTACTS ALSO EXPRESSED INTEREST IN
CONSULTING WITH US DEL AND OTHERS TO FORMULATE MEANS OF "TYING
UP LOOSE ENDS" ON STRAITS ARTICLES. SOVIETS DURING RECENT VISIT
HERE APPARENTLY BROACHED IDEA OF CREATING FOURTH COMMITTEE AT

CONFERENCE TO DEAL WITH DISPUTES SETTLEMENT TOPIC, BUT AS FAR AS WE CAN TELL MALAYSIANS ARE LUKEWARM TO THIS PROPOSAL. FINALLY, WE BELIEVE IT WOULD BE WORTHWHILE FOR US DELEGATION, IN PARTICULAR AMBASSADOR RICHARDSON, TO ESTABLISH PERSONAL CONTACT WITH DATUK HAMZAH. END SUMMARY.

2. GOM OFFICIALS INVOLVED IN LOS MATTERS INFORM US THAT NEW LAW MINISTER/ATTORNEY GENERAL DATUK HAMZAH ABU SAMAH WILL ATTEND PART OXOTHOF THE FORTHCOMING 7TH SESSION OF THE THIRD UN LAW OF THE SEA CO
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FERENCE SCHEDULED TO COMMENCE IN GENEVA MARCH 28 ALTHOUGH HE WILL NOT REPEAT NOT BE ON HANDNVR ENTIRE PROCEEDINGS. AS MATTERS NOW STAND, SENIOR FEDERAL COUNSEL AND HEAD OF LAW MINISTRY'S INTERNATIONAL

L
LAW DIVISION, ZAKARIA YATIM, SECOND RANKING MEMBER OF THE GOM DELEGATION, WILL ACCOMPANY HAMZAH TO GENEVA, PROBABLY FOR THE BEGINNING OF THE THIRD WEEK OF THE SESSION. (ZAKARIA WILL BE INVOLVED WITH BOTH FIRST AND SECOND COMMITTEES AND WILL HELP NEGOTIATE THE FINAL DETAILS OF THE STRATIS ARTICLES). UNTIL ARRIVAL OF THE MINISTER AND ZAKARIA, THE 3RD RANKING MEMBER, MOHAMED HASHIM SAM BIN ABDUL LATIFF (SECRETARY-GENERAL, MINISTRY OF SCIENCE AND TECHNOLOGY) WILL HEAD THE GOM DELEGATION. OTHERS IN THE DELEGATION WILL INCLUDE: AZZAT KAMALUDDIN, FIRST SECRETARY, MALAYSIAN COMMISSION, HONG KONG (WHO WILL CONCENTRATE ON DISPUTE SETTLEMENT) RASTAM MOHAMED ISA, ASSISTANT SECRETARY (EQUIVALENT TO A CONFIDENTIAL

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DESK OFFICER), LOS AFFAIRS, FOREIGN MINISTRY; GULAMOYDEEN BIN MOHAMED HANIFFA, FEDERAL COUNSEL, ATTORNEY GENERAL'S CHAMBERS; A MR. NATHAN FROM AG'S CHAMBERS, AND AS YET UNIDENTIFIED REPRESENTATIVES FROM THE MINISTRIES OF COMMUNICATION AND AGRICULTURE AND THE NATIONAL PETROLEUM CORPORATION, PETRONAS, AS WELL AS A REPRESENTATIVE FROM THEIR GENEVA MISSION.

3. ACCORDING TO AN MFA CONTACT, PART OF THE GOM DELEGATION HAS ALREADY LEFT FOR GENEVA AND WILL BE AVAILABLE FOR CONSULTATIONS WITH THE US AND OTHER DELEGATIONS ON MATTERS OF MUTUAL CONCERN.

4. ONE SENIOR MALAYSIAN LOS OFFICIAL TOLD EMBASSY LOS OFFICER ON MARCH 23 THAT DATUK HAMZAH HAS HAD A CHANCE TO STUDY AMBASSADOR RICHARDSON'S SERIOUS STATEMENTS AND TESTIMONY (EXCEPTING HIS MARCH 16 PRESS CONFERENCE, WHICH HAMZAH HAS SINCE RECEIVED) RELATING TO DEEP SEABED MINING AND HAD MET WITH LAW MINISTRY AND MFA OFFICIALS THIS WEEK TO REVIEW THIS AND OTHER LOS MATTERS. ACCORDING TO OUR CONTACTS, HAMZAH EXPRESSED CONCERN THAT DEEP SEABED MINING LEGISLATION PENDING BEFORE CONGRESS AND OTHER INDICATIONS OF US WILLINGNESS TO "GO IT ALONE" IF NEED BE IN LIEU OF AN LOS TREATY WOULD ANTAGONIZE A NUMBER OF THE MORE

RADICAL THIRD WORLD PARTICIPATNS WHO WOULD SEE THIS AS
CONTRARY TO THE "COMMON HERITAGE" CONCEPT. EMBASSY LOS OFFICER
POINTED OUT THAT US CONTINUED TO HOPE THAT COMPROMISE COULD BE
REACHED AND COMPREHENSIVE LOS TREATY CONCLUDED, THAT THE
ADMINISTRATION FAVORS LEGISLATION THAT IS NOT INCOMPATIBLE WITH
A SEABED MINING TREATY IN THE LOS CONTEXT, BUT THAT THE US IS AT
A POINT WHERE WE MUST BEGIN TO THINK OF ALTERNATIVE MEASURES TO
PROTECT OUR INTERESTS SHOULD THERE NOT BE A SUCCESSFUL OUTCOME
OF THE LOS NEGOTIATIONS.

5. THESE MFA AND LAW MINISTRY OFFICIALS INDICATED THEY WOULD BE
STUDYING CAREFULLY AMBASSADOR RICHARDSON'S MARCH 16 PRESS CON-
FERENCE STATEMENT AND TRANSCRIPT OF ENSUING QUESTION AND ANSWER
SESSION, AND WULD PASS ON ANY FURTHER COMMENTS THEY HAVE ON THE
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US POSITION. THEY ALSO EMPHASIZED THAT THEY WOULD LOOK FORWARD
TO CONSULTATIONS WITH THE US DELEGATION AND OTHERS AT GENEVA IN
ORDER TO "TIE UP SOME LOOSE ENDS" ON THE STRAITS ARTICLES,
INCLUDING INCORPORATING AT SOME APPROPRIATE POINT ADDITIONAL
WORDIN ON SAFEGUARDING THE ENVIRONMENT AND SOMEHOW ADDRESSING
THE QUESTION OF ENFORCING THE 3.5 METER UNDER KEEL CLEARANCE
(UKC) PROVISION OF THE MALACCA STRAITS TRAFFIC SEPARATION SCHEME
(TSS) APPROVED AT THE NOVEMBER, 1977, IMCO MEETING IN LONDON.
ONE POSSIBILITY, ONE OF OUR CONTACTS MENTIONED, WOULD BE TO
CHARACTERIZE VIOLATION OF THE UKC LIMITS AS POSING A "THREAT OF
MAJRO DANGER" FOR WHICH CERTAIN UNSPECIFIED PENALITES MIGHT BE
INCURRED.

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ACTION DLOS-02

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C O N F I D E N T I A L SECTION 2 OF 2 KUALA LUMPUR 2433

LIMDIS

GENEVA FOR USDEL LOS CONFERENCE

6. OUR LOS CONTACTS ALSO INFORMED US THAT IN THE COURSE OF THE MARCH 13-16 VISIT TO KUALALUMPUR OF SOVIET DEPUTY FOREIGN MINISTER FIRYUBIN HE OR SOMEONE IN HIS PARTY HAD BROACHED THE SUBJECT OF CREATING A FOURTH COMMITTEE AT THE LOS CONFERENCE TO DEAL WITH THE SUBJECT OF DISPUTES SETTLEMENT PROCEDURES AND MECHANISMS, RATHER THAN CONTINUING TO DEAL WITH THIS TOPIC IN PLENARY. ONE OFFICIAL SAID THAT ALTHOUGH HE WOULD NOT WANT TO CHARACTERIZE HIS GOVERNMENT'S VIEW OF THIS PROPOSAL AS

"UNENTHUSIASTIC," HE NEVERTHELESS PERSONALLY SAW SUCH A MOVE AS LIKELY TO RAISE A NUMBER OF PROCEDURAL PROBLEMS.

7. COMMENT: WHILE LAW MINISTER HAMZAH IS NEW TO HIS JOB AND FOR THIS REASON AND BY TEMPERAMENT GENERALLY VIEWED AS LESS LIKELY TO PLAY AS ACTIVE A ROLE AS HIS PREDECESSOR ON THE DEEP CONFIDENTIAL

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SEQBESU MINING ISSUE IN PARTICULAR, WE BELIEVE IT WOULD BE WORTHWHILE FOR THE US DELEGATION, PARTICULARLY AMBASSADOR RICHARDSON, TO ESTABLISH A PERSONAL RELATIONSHIP WITH HIM. WE UNDERSTAND THAT AT LAST MONTH'S INTERSESSIONAL TALKS IN NEW YORK MALAYSIA WAS APPOINTED TO A SPECIAL 26 NATION NEGOTIATING COMMITTEE ON THE DEEP SEABEDS ISSUE, AND THIS STRENGTHENS OUR BELIEF THAT IT WOULD BE WORTH THE EFFORT TO ENCOURAGE MALAYSIA'S ACTIVE INVOLVEMENT AS A MODERATE G-77 MEMBER ON BEHALF OF A WORKABLE COMPROMISE. HAMZAH UNDOUBTEDLY IS AWARE OF THE SPECIAL RAPPORT THAT EXISTED BETWEEN AMBASSADOR RICHARDSON AND HIS PREDECESSOR, TAN SRI ABDUL KADIR YUSOF, AND WE BELIEVE HE WOULD WELCOME SIMILAR PERSONAL CONTACT. (SEE ADDITIONAL BACKGROUND CONTAINED KUALA LUMPUR 0365 AND 1185, BOTH NOTAL. MILLER

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